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CENTRAL DISTRICT COURT
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6 **UNITED STATES DISTRICT COURT**
7 **CENTRAL DISTRICT OF CALIFORNIA**

8 Deon L. Thomas Pro Se'
9 Plaintiff

10 V.

11 Bleier & Cox LLP
12 Defendant

13 Co-Defendants
14 NCO Financial Systems, Inc., CAPITAL ONE,
aka
15 CAPITAL ONE, NATIONAL ASSOCIATION,
CAPITAL ONE FINANCIAL CORP., CAPITAL
16 ONE BANK (USA), N. A., Capital One Bank
17 (USA), N.A. ("COBUSANA")
18 Does 1 through 10

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-)
-)
-) Case No: 2:11-cv-04428 AHM (opX)
-) JOINT RULE 26(f) REPORT &
-) PROPOSED DISCOVERY PLAN
-) Scheduling Conference: 10/3/2011
-) Time: 1 :30 p.m.
- Courtroom: 14
- Judge: Hon. A. Howard Matz

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1 Pursuant to Federal Rule of Civil Procedure Rule 26(f), the
2 parties having meet and confer per local and federal rules,
3 submit the following Jont Rule 26(f) Report and Proposed
4 Discovery Plan.

5 **A. short statement of the claims, counterclaims, and affirmative
6 defenses, not to exceed three (3) pages.**

7 Plaintiff Deon Thomas ("Plaintiff") alleges that Defendant
8 Bleier & Cox, LLP ("Bleier & Cox"), Co-Defendant NCO Financial
9 Systems, Inc. ("NCO"), and Co- Defendant Capital One et
10 al. ("Capital One"), violated numerous provisions of the federal
11 Fair Debt Collection Practices Act ("FDCPA"), violated numerous
12 provisions of the Fair Credit Reporting Act ("FCRA"), committed
13 willful and negligent noncompliance pursuant to 15 U.S.C. 1681 et
14 seq., and violated Plaintiff's civil rights in their attempts to
15 collect an alleged consumer debt from Plaintiff. Plaintiff alleged
16 he is entitled to statutory damages, actual damages, attorneys fees
17 and costs under the FDCPA and the FCRA.

18 Bleier & Cox, NCO and Capital One , each deny Plaintiff's
19 allegations and contest Plaintiff's damage claims.

20 **B. A brief description of the key legal issues.**

21 The primary legal issue is whether Bleier & Cox, NCO and
22 Capital One ,committed the alleged conduct and whether the alleged
23 conducted violated the FDCPA, which prohibits debt collectors from
24 engaging in abusive, deceptive, and unfair practices; and whether

1 Capital One violated the FCRA, which was enacted to ensure accuracy
2 and fairness in credit reporting.

3 The key legal issue presented with respect to Plaintiff's claim
4 against Capital One is whether it violated FCRA Section 1681s-2 by
5 failing, after receiving notice of dispute from a credit reporting
6 agency, to conduct a reasonable investigation with respect to
7 information disputed by Plaintiff.

8

9 **C. A discussion of the likelihood of motions seeking to add
10 other parties or claims, file amended pleadings, or transfer
11 venue.**

12 Bleier & Cox, NCO and Capital One , do not anticipate
13 filing an amended pleading adding other parties or moving to
14 transfer venue. Plaintiff reserves the right to file an amended
15 pleading adding additional causes of action and other parties.

16

17 **D. Insurance Coverage:**

18 Capital One maintain a blended professional liability insurance
19 policy. Capital One does not expect insurance coverage to impact
20 this litigation. NCO maintain a blended professional liability
21 insurance. NCO does not expect insurance coverage to impact this
22 litigation. Bleier & Cox maintain a blended professional liability
23 insurance. Bleier & Cox does not expect insurance coverage to
24 impact this litigation.

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27 **E. A discussion of discovery and experts pursuant to Rule
28 26(f).**

1 The parties agree to conduct discovery per the Federal Rule of
2 Civil Procedure guidelines and constraints. The parties believe
3 that any information pertaining to the communication between
4 Plaintiff and Defendants, both written and oral, will need to be
5 discovered.

6 Plaintiff desires to limit the number of written discovery
7 request to a maximum of: thirty (30) interrogatories by each party
8 to any other party; thirty (30) request for admissions by each
9 party to any other party, thirty (30) requests for production for
10 documents by each party, with all responses due within thirty (30)
11 days after service; A maximum of six (6) six depositions to be
12 taken by each party, excluding expert deposition.

13 1) Plaintiff's discovery will be directed toward all of
14 Bleier & Cox, NCO and Capital One's contacts with Plaintiff.
15 Plaintiff will also conduct discovery into Defendant' s affirmative
16 defenses.

17 2) Bleier & Cox discovery will be directed toward
18 Plaintiffs' allegations and damages. Defendant may take
19 depositions and propound discovery.

20 3) NCO discovery will be directed toward Plaintiffs'
21 allegations and damages. . Defendant may take depositions and
22 propound discovery.

23 4) Expert witness disclosures: The parties agree to the
24 time for expert witness disclosures set forth in FRCP 26(a) (2) (C).
25

1 5) Capital One anticipates that it will conduct discovery
2 regarding Plaintiff's FCRA claim, including but not limited to
3 Plaintiff's Capital One account, communications between Plaintiff
4 and Capital One; communication between Plaintiff and any credit
5 reporting agencies; Plaintiff's credit reports; and Plaintiff's
6 claims for damages. Capital One plans to depose Plaintiff.
7
8 Capital One may depose corporate representatives of the credit
9 reporting agencies if necessary.

10 6) Electronically stored information: The parties have not
11 identified nor anticipate issues to arise relating to the
12 identification, maintenance and production of electronically stored
13 information. The parties have made no formal agreements relating
14 to the topic.

16 7) Plaintiff intend to file discovery as they are relevant
17 to cross examine/depose all persons that Capital One, Bleier & Cox
18 and NCO provides as witnesses, expert witnesses, and or persons
19 having knowledge of any alleged accounts or information or
20 documentation pertinent to this action or to the Plaintiff.

22 8) Discovery conducted thus far: The parties have not
23 yet conducted discovery.

24 9) Discovery Limitations: Bleier & Cox, NCO, and Capital
25 One intend to file discovery motions to limit the scope of
26 discovery to the facts alleged in this case and to not allow
27 discovery of Bleier & Cox's, NCO's, and Capital One's ,

1 respective, employee training program and employee supervision
2 practices which is irrelevant, not likely to lead to admissible
3 evidence, and overly burdensome; or any other protected documents.
4 Bleier & Cox, NCO, and Capital One all anticipate the need for a
5 Stipulated Protective Order and Confidentiality Agreement as to any
6 respective account notes or documents which are determined relevant
7 and discoverable. Capital One may move for a protective order
8 regarding certain confidential and proprietary information
9 requested in discovery.

10) Plaintiff intend to file discovery motions to limit the
11 scope of discovery to the fact only alleged in this case and to not
12 allow discovery to go beyond the scope of the complaint, which is
13 irrelevant, inadmissible, and overly burdensome. Plaintiff
14 anticipate the need for a Stipulation of Protective Order.

15 **F. A description of any issues which may be resolved by motions
16 for summary judgment.**

17 Plaintiff, Bleier & Cox, NCO and Capital One, all believe
18 that liability could be determined in a motion for summary
19 judgment.

20 Plaintiff anticipates that a motion in opposition may be
21 appropriate in the event that a motion for summary judgment is
22 filed by Bleier & Cox, NCO or Capital One as prompt discovery will
23 demonstrate on the record, clear genuine issues of material fact,
24 precluding summary judgment.

1 **G. A brief description of settlement discussion to date, and the**
2 **settlement selection pursuant to Local Rule 16.**

3 The parties have discussed settlement in good faith and
4 were unable to reach an agreement. The parties consent to use a
5 magistrate judge for a settlement conference.

6 **H. A realistic time estimate required for trial and whether it**
7 **will be jury or court.**

8 Plaintiff has requested a jury trial and anticipates a
9 (2) or (3) day trial.

10 Bleier & Cox, NCO or Capital One are not requesting a jury
11 trial. They anticipate a 2 or 3 day bench trial or a 1 week jury
12 trial if Plaintiff continues to request a jury trial.

13 **I. Proposed dates.**

14 The Plaintiff have discussed and agreed on the following
15 dates:

- 16 1) Fact discovery cut-off= January 9, 2012
- 17 2) First expert exchange = December 19, 2011
- 18 3) Second expert exchange = January 23, 2012
- 19 4) Expert discovery cut-off = February 13, 2012
- 20 5) Motion hearing date cut-off = February 20, 2012
- 21 6) Pre-trial conference = March 19, 2012
- 22 7) Trial = April 9, 2012

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CERTIFICATE OF SERVICE
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I Deon L. Thomas do hereby certify that on September 19, 2011, I served the **JOINT RULE 26(f)**
REPORT & PROPOSED DISCOVERY PLAN upon the Clerk of the Court



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